

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

**STEPHEN S. DREW, individually and on  
behalf of a proposed class**

**Plaintiff**

**CASE NO. 3:12:-cv-9022**

**v.**

**ENERGY FUTURE HOLDINGS CORPORATION,  
and LUMINANT MINING COMPANY, LLC,**

**Defendants.**

**DEFENDANTS' MOTION TO DISMISS FOR LACK OF JURISDICTION  
OR, IN THE ALTERNATIVE, MOTION TO TRANSFER VENUE OR, IN THE  
ALTERNATIVE, MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

Defendants Energy Future Holdings Corporation and Luminant Mining Company, LLC (collectively, "Defendants") respectfully submit this Motion to Dismiss For Lack of Jurisdiction or, in the alternative, Motion to Transfer Venue or, in the alternative, Motion to Dismiss for Failure to State a Claim.

For the reasons set forth in the accompanying Memorandum of Law, Defendants request that the Court dismiss Plaintiff's Amended Complaint because this Court has no jurisdiction over Defendants, both of which are Texas corporations with no offices, employees, operations or any other business presence in West Virginia and Plaintiff's claims arise out of Plaintiff's contacts to Defendants for the purpose of securing employment in Texas. In the alternative, Defendants request that the Court transfer this action to the Northern District of Texas, Dallas Division, because the acts about which Plaintiff complains occurred in Texas. In the further alternative, Defendants request that the Court dismiss Plaintiff's Amended Complaint because it fails to state a claim under the Fair Credit Reporting Act.

Pursuant to LR Civ. P. 7.1(a)(1), Defendants submit herewith the following exhibits in support of this Motion: the Affidavit of Elizabeth M. Bedell and exhibits thereto; the Affidavit of Betty Fleshman; the Affidavit of Maurice Floyd and exhibit thereto; the Affidavit of Darrell Jacobsen and exhibits thereto; and the Affidavit of Jonathan Lewis.

Respectfully submitted,

/s/ Ann Marie Painter

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*Counsel for Defendants, Energy Future Holdings  
Corp. and Luminant Mining Company, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 15, 2013, I presented the foregoing document to the Clerk of Courts for filing and uploading to the CM/ECF system, which will send notification to the following CM/ECF participants:

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